

Amendment in Application Number 09/910,809
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Remarks

It is observed that the Examiner still rejected claims 1-11 and 18-20 as being unpatentable over Gibbens in view of Speth, claims 12-14 as being unpatentable over Gibbens and Speth, in view of Garneau and claims 21 and 22 as being unpatentable over Gibbens in view of Garneau.

According to the Examiner, the only difference between applicant's current claim 1 and Gibbens is that Gibbens does not disclose that the double-stretch padding is attached to the shorts in an absence of stitched seams.

However, Speth would disclose such feature and thus the combination of the two prior art documents would be obvious.

The applicant respectfully disagrees with the Examiner's interpretation of the documents in the name of Gibbens and Speth.

As indicated in the applicant's last letter, the protective element of Gibbens is not comparable to the applicant's protective element since due to its constructive arrangement elasticity is not present in the meaning of the applicant's invention.

Although it is certainly true that the protective element of Gibbens has elasticity, such elasticity is not the same as the applicant's one.

In fact, the whole assembly of Gibbens (as already stated in applicant's last letter), consists of a cycling short with a padding coupled thereto, the cycling shorts being made of elastic material, the padding being made of a resilient material (even if it is not explicitly said by Gibbens that the padding is made of a material which is a double-stretch material) covered by a layer (main member 6) of a material having a napped or felt surface, such as a fabric made of polypropylene fiber.

In summary, even if the pads of Gibbens (please note that it is said "pads" and not "padding" since the padding according to Gibbens is the result of the coupling of a fabric material made for example of polypropylene with the pads made of foam material) were double stretch elements (and this is not said by Gibbens since it is not his issue), the coupling of the pads with the external layer of fabric which is not elastic (in any case at least not a double-stretch material) would produce a "padding" that is not a double stretch one as claimed in the applicant's claimed invention.

The external fabric layer, not elastic, would deprive the pads of their elasticity, if any.

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The Examiner failed to supply arguments about the fact that the coupling of an external layer made of a clearly not elastic material affects the elasticity of the whole assembly.

Thus, the applicant is of the opinion that present claim 1 is both new and inventive over the cited prior art documents in that Gibbens does not provide a "padding" that results to be double stretch and wherein the support and the padding have the same behavior as far as elongation along multiple planes is concerned.

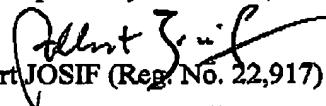
Still further, not only Gibbens and Spelth provide, even if combined, an arrangement as claimed in present claims 1 and 21, but neither Gibbens, nor Spelth nor anyone of the cited prior art documents even recognize the problem of having a support and a padding made of a double-stretch material having the same characteristics as regards elongation along multiple planes.

Thus, in view of the above, it is strongly believed that even the combination of Gibbens with Spelth or with any other cited prior art documents would not lead the skilled man in the art to devise a protective element as claimed in independent claims 1 and 21.

In view of the above, reconsideration of the pending claims is respectfully requested by the applicant.

Should the Examiner believe that the application is still not in an allowable condition only because of minor deficiencies, an informal phone conversation with the Examiner or an Examiner's Amendment are kindly requested by the Applicant. Should the Examiner still be of the opinion that present claim 1 is obvious over the cited prior art documents, the applicant will file an appeal.

Respectfully submitted,


Albert JOSIF (Reg. No. 22,917)
Agent for the Applicant

Via Meravigli 16
20123 MILAN-ITALY
Tel.: +39.02.8590-7777
Fax.: +39.02-863-860

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